

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>KEVIN F. JOHNSON,</b>	:	
	:	
<b>Petitioner,</b>	:	
	:	<b>CIVIL ACTION</b>
<b>v.</b>	:	
	:	<b>13-3197</b>
<b>JOHN KERESTES, et. al.,</b>	:	
	:	
<b>Respondent.</b>	:	

**ORDER**

**AND NOW**, this 4<sup>th</sup> day of May 2015, upon careful and independent consideration of the petition for writ of habeas corpus, doc. no. 1, the response to the petition, doc. no. 6, petitioner’s two motions for discovery, doc. nos. 21, 36, and petitioner’s “motion for expedited discovery, for order directing petitioner’s counsel to exhaust state remedies and for order staying and abeying federal habeas proceedings,” doc. no. 38, and the response thereto, doc. no. 41, and petitioner’s reply, doc. no. 44, and after review of Magistrate Judge Henry Perkin’s report and recommendation, doc. no. 45, to which no timely objection has been made, **IT IS HEREBY ORDERED** that:

1. The report and recommendation is **APPROVED** and **ADOPTED**.<sup>1</sup>
2. Petitioner’s motions for discovery, doc. nos. 21, 36, are **DENIED** without prejudice.<sup>2</sup>

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<sup>1</sup> Since Mr. Johnson has not filed objections, I need only give some reasoned consideration to the report and recommendation. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). I find that Judge Perkin’s report and recommendation is well reasoned and free of clear error. *See* Fed. R. Civ. P. 72(b) advisory committee’s note.

<sup>2</sup> Mr. Johnson’s PCRA petition is still pending in state court. The state courts should be allowed to define the scope of discovery. If Mr. Johnson’s PCRA petition is unsuccessful and stay of his habeas petition is lifted, the district court will then consider these discovery requests.

3. Petitioner’s “motion for expedited discovery, for order directing petitioner’s counsel to exhaust state remedies and for order staying and abeying federal habeas proceedings,” doc. no. 38, is **GRANTED in part**.<sup>3</sup>

4. The petition for a writ of Habeas Corpus is **STAYED** and held in **ABEYANCE** until the conclusion of petitioner’s state appellate proceedings.

5. The clerk is directed to place this case in **CIVIL SUSPENSE**.

6. Petitioner’s counsel shall notify this court within 30 days of the termination of state court proceedings.

7. Petitioner’s “motion for expedited discovery, for order directing petitioner’s counsel to exhaust state remedies and for order staying and abeying federal habeas proceedings,” doc. no. 38, is otherwise **DENIED**.

8. There is no probable cause to issue a certificate of appealability.

BY THE COURT

/s/ Lawrence F. Stengel  
LAWRENCE F. STENGEL, J.

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<sup>3</sup> Staying this case is appropriate. If I dismissed the petition without prejudice, it is possible that Mr. Johnson’s petition for habeas relief will be time barred. Furthermore, respondents do not oppose the stay.